

**ORAL HISTORY INTERVIEW**

**Gary S. Elster**



**STATUS OF INTERVIEW:  
OPEN FOR RESEARCH**



Interview Conducted and Edited by:  
Donald B. Seney in 1998  
California State University-Sacramento  
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“. . . if it hadn’t been for a hundred years of litigation and agreements, it might have been resolved, but every time you ran across one of these, it was, ‘Remember, we have all these agreements out there, so whatever we do, we can’t affect those.’ Well, at some point you ask, ‘Well, what is it you’re trying to do, anyway? Because if you can’t affect those, you can’t change the way things are doing,

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"Obviously the litigation or the settlement act itself is thrust down the throat of the folks in Newlands area, and they were fighting it every inch of their resolve all the way along the line. And I guess you'd have to say I understand that, because it was trying to take away a privilege that they had been given by the U.S. Government and the people, and they didn't want to give it up. . . ." .....

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". . . it was like any other form of welfare, and they were getting welfare and didn't want to give it up. You know, who does? . . ." .....



STATEMENT OF DONATION  
OF ORAL HISTORY INTERVIEW OF  
GARY S. ELSTER

1. In accordance with the provisions of Chapter 21 of Title 44, United States Code, and subject to the terms, conditions, and restrictions set forth in this instrument, I, GARY S. ELSTER (hereinafter referred to as "the Donor"), of KIHUI, HAWAII do hereby give, donate, and convey to the National Archives and Records Administration (hereinafter referred to as "the National Archives"), acting for and on behalf of the United States of America, all of my rights and title to, and interest in the information and responses (hereinafter referred to as "the Donated Materials") provided during the interviews conducted on AUGUST 9, 1998 at KIHUI, HAWAII and prepared for deposit with the National Archives and Records Administration in the following format: tape recording and transcript. This donation includes, but is not limited to, all copyright interests I now possess in the Donated Materials.
2.
  - a. It is the intention of the Archivist to make Donated Materials available for display and research as soon as possible, and the Donor places no restrictions upon their use.
  - b. The Archivist may, subject only to restrictions placed upon him by law or regulation, provide for the preservation, arrangement, repair, and rehabilitation, duplication, and reproduction, description, exhibition, display, and servicing of the Donated Materials as may be needful and appropriate.
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4. The Archivist may dispose of Donated Materials at any time after title passes to the National Archives.

Date: 8/9/98

Signed:   
GARY S. ELSTER

INTERVIEWER: DONALD B. SENEY

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## Introduction

In 1988, Reclamation began to create a history program. While headquartered in Denver, the history program was developed as a bureau-wide program.

One component of Reclamation's history program is its oral history activity. The primary objectives of Reclamation's oral history activities are: preservation of historical data not normally available through Reclamation records (supplementing already available data on the whole range of Reclamation's history); making the preserved data available to researchers inside and outside Reclamation.

In the case of the Newlands Project, the senior historian consulted the regional director to design a special research project to take an all around look at one Reclamation project. The regional director suggested the Newlands Project, and the research program occurred between 1994 and signing of the Truckee River Operating Agreement in 2008. Professor Donald B. Seney of the Government Department at California State University - Sacramento (now emeritus and living in South Lake Tahoe, California) undertook this work. The Newlands Project, while a small- to medium-sized Reclamation project, represents a microcosm of issues found throughout Reclamation: water transportation over great distances; three Native American groups with sometimes conflicting interests; private entities with competitive and sometimes misunderstood water rights; many local governments with growing water needs; Fish and Wildlife Service programs

competing for water for endangered species in Pyramid Lake and for viability of the Stillwater National Wildlife Refuge to the east of Fallon, Nevada; and Reclamation's original water user, the Truckee-Carson Irrigation District, having to deal with modern competition for some of the water supply that originally flowed to farms and ranches in its community.

The senior historian of the Bureau of Reclamation developed and directs the oral history program. Questions, comments, and suggestions may be addressed to the senior historian.

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For additional information about Reclamation's history program see:

[www.usbr.gov/history](http://www.usbr.gov/history)

**Oral History Interview  
Gary S. Elster**

Seney: My name is Donald Seney. Today is August 8,  
1998. I'm with Mr. Gary Elster in his lovely  
home in—where are we?

Elster: We're in Kihei.

Seney: Kihei, Maui, Hawaii. Good morning.

Elster: Good morning, Donald.

**Getting Involved in the Issues on the Upper  
Truckee River**

Seney: As I said before we turned the tape on, what  
we're trying to do is get all the voices  
concerning the impact of the Newlands Project.  
I've been kind of working my way up the  
Truckee and the Carson river[s].<sup>1</sup> I started

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1. A note on editorial conventions. In the text of these  
interviews, information in parentheses, ( ), is actually on the tape.  
Information in brackets, [ ], has been added to the tape either by the  
(continued...)

really at the termini of those two rivers. So I  
want to talk to you about the issues as you see  
them on the upper Truckee. How did you get

---

1. (...continued)

editor to clarify meaning or at the request of the interviewee in order to correct, enlarge, or clarify the interview as it was originally spoken. Words have sometimes been struck out by editor or interviewee in order to clarify meaning or eliminate repetition. In the case of strikeouts, that material has been printed at 50% density to aid in reading the interviews but assuring that the struckout material is readable.

The transcriber and editor also have removed some extraneous words such as false starts and repetitions without indicating their removal. The meaning of the interview has not been changed by this editing.

In an effort to conform to standard academic rules of usage (see *The Chicago Manual of Style*), individual's titles are only capitalized in the text when they are specifically used as a title connected to a name, e.g., "Secretary of the Interior Gale Norton" as opposed to "Gale Norton, the secretary of the interior;" or "Commissioner John Keys" as opposed to "the commissioner, who was John Keys at the time." Likewise formal titles of acts and offices are capitalized but abbreviated usages are not, e.g., Division of Planning as opposed to "planning;" the Reclamation Projects Authorization and Adjustment Act of 1992, as opposed to "the 1992 act."

The convention with acronyms is that if they are pronounced as a word then they are treated as if they are a word. If they are spelled out by the speaker then they have a hyphen between each letter. An example is the Agency for International Development's acronym: said as a word, it appears as AID but spelled out it appears as A-I-D; another example is the acronym for the Truckee River Operating Agreement: TROA when said as a word, but T-R-O-A when spelled out.

involved in all of this?

**Lived Near Prosser Reservoir and Was Surprised  
When its Level Suddenly Dropped Four Feet**

Elster: We lived very close to Prosser Reservoir, and somewhere—let's see. I'm trying to recall the exact time. I think it was about Memorial Day. It was after one of the drought years, where our reservoir was relatively empty all year, and then in the spring we finally had some precipitation. The reservoir finally started to fill up, and just about Memorial Day, it—

Seney: This was 1992, according to your testimony.

Elster: That's probably right. You're going to have to fill in the dates.

Seney: That's all right. Don't worry about it. Those are the least important facts.

Elster: The reservoir was taken down substantially. In fact, cars had been going out and using it for recreation purposes, parking near the lake, got stuck in the mud and so on like that. It went down, I think, about four feet over the weekend. So it was kind of a version of “Ghostbuster.”

### **Had A Little Trouble Tracking Down Why the Lake Went Down So Much**

Who do you call to find out why this happened after all of this? And it took me a while, but I finally ended up calling, first, California Department of Water Resources and then was referred to Bureau of Reclamation in Reno to find out if this water was being taken down for the Newlands Project. That was a necessity to be done like that, and that was the end of it, and



thank you very much.

Seney: What was their attitude when you called?

**“It was fairly typical government. ‘We know sort of what’s going on and what’s best, and this is a very complicated thing, and you probably won’t be able to understand what’s going on, but there’s years of our dealing with this issue. It’s a very complicated interstate issue. Thank you very much.’ . . .”**

Elster: It was fairly typical government. “We know sort of what’s going on and what’s best, and this is a very complicated thing, and you probably won’t be able to understand what’s going on, but there’s years of our dealing with this issue. It’s a very complicated interstate issue. Thank you very much.”

**“. . . I was trying to get the answers, and so I thought I would delve into it a little bit and find out what this was all about. . . .”**

That left me a little cold, as you might expect,

since I was trying to get the answers, and so I thought I would delve into it a little bit and find out what this was all about. And I did.

I started calling more people and getting more information, found out that our own bureaucrats, [the California] Department of Water Resources, had agreed on some sort of a tentative interstate kind of an agreement, this had been done a number of years ago, and how come I wasn't involved then. [Laughter] And that was the end of that one for a little while.

Seney: This is the California Department of Water Resources.

**Realized That No One Had Looked Out for the Upper Truckee Basin Interests**

Elster: California. So at that point I started getting in a

little deeper and talking to more people and realizing that there really was nobody looking out for the upstate—that is, the upriver environment and economy, which turned out to be exactly the same thing in the Truckee area.

Seney: This is essentially the area from the California-Nevada border up to—is it Sand Ranch, Sand Bar Ranch?<sup>2</sup> What is the cutoff generally recognized to be between the Lake Tahoe Basin and the upper Truckee Basin? I know there's a point, and I can't remember the name of it.

Elster: Yes. You know, I don't know the exact spot either, because I didn't look at it as a cutoff between Tahoe Basin, Truckee Basin at the time. I didn't know there was a distinction.

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2. Kathleen Eagan in her interview identified this as the River Ranch.

The distinction is only in the bureaucratic sense,  
not in a real sense.

**“There’s only one river and it runs from Lake  
Tahoe to Pyramid Lake. The political interests  
started divvying it up on state lines and between  
regions and between basins and so on . . .”**

There’s only one river and it runs from Lake  
Tahoe to Pyramid Lake. The political interests  
started divvying it up on state lines and between  
regions and between basins and so on, but I  
didn’t recognize it as such at the time, as I was  
just getting into it.

Seney: How did you begin to learn about this? What  
did you do to inform yourself? What were your  
reactions? You have a legal background.  
You’re an unbelievably young retired attorney,  
apparently. I can’t imagine what good fortune

struck you. I'm very envious here. But you have a legal background, so that must have been of some use. But tell us how you informed yourself about this complicated matter.

### **Learning About the Issues**

Elster: Yes, I was a trial lawyer by profession, and certainly I think without the skills I never would have been able to penetrate the bureaucratic maze.

### **Talked to Ed Solbos, the Local Head of Reclamation in Carson City**

But I did talk to the head of the Bureau [of Reclamation] in Reno. Ed, I think, was his name.

Seney: The office is actually in Carson City, so it was probably Ed Solbos.

Elster: Ed Solbos.<sup>3</sup> And he was actually fairly informative when I finally did track him down, explaining to me. He started with a nutshell version of all the myriad agreements and the different requirements of operating each of the reservoirs and the interstate and the Tahoe and the General Electric agreement and so on and so on.

**“It’s certainly like taking a drink out of a fire hydrant to even get a thumbnail of that, much less intricacies of how each reservoir was operated and for what reasons. . . .”**

It’s certainly like taking a drink out of a fire hydrant to even get a thumbnail of that, much less intricacies of how each reservoir was operated and for what reasons.

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3. Reclamation’s oral history program includes interviews with Ed Solbos.

**“ . . . I clearly found out in a big hurry . . . that while all of these reservoirs were situated in California, not one of them was operated for any benefit in California. . . .”**

Of course, one thing that I clearly found out in a big hurry is that while all of these reservoirs were situated in California, not one of them was operated for any benefit in California. In fact, if anything, to the disdain of any California interest.

**“They absolutely had no interest in what was going on in California, what might be the impact on the environment in California, the recreation in California, on the economy of California. . . .”**

They absolutely had no interest in what was going on in California, what might be the impact on the environment in California, the recreation in California, on the economy of California. That I found out in a very big hurry.

[Tape interruption]

**“ . . . I decided that in order to deal with the downstream users we needed to form a broad-based local interest group to deal with the obviously well-financed and superior forces that were allied downstream. . . . all on the other side of the border, including all of the governmental agencies from the United States Government, who were all on the other side and they all looked at the issues, . . . from the downstream viewpoint. . . .”**

[So I decided that in order to deal with the downstream users we needed to form a]<sup>4</sup>... broad-based local interest group to deal with the obviously well-financed and superior forces that were allied downstream. Not exactly allied, but at least all on the other side of the border, including all of the governmental agencies from the United States Government, who were all on the other side and [they all] looked at [the

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4. Clarification added by Mr. Elster.



issues,] ~~that~~, as I got into it, all from the downstream viewpoint.

### **Forming the Truckee River Advisory Council to Advance Upper Truckee Interests**

So we did form a group called Truckee River Advisory Council and gathered the various interests upstream, from fly fishing groups, to river interested groups, to recreation, government, multi-county, and so on like that.

Seney: I actually have a list here. Would you like me to read it?

Elster: If you like.

Seney: So it will be on the record. It was Nevada, Placer, and Washoe Counties. Washoe County is kind of interesting because that's actually in Nevada, is it not?

**“ . . . there was actually two different groups that were formed. . . .”**

Elster: That's in Nevada. But you're probably thinking of--there was actually two different groups that were formed. One was the Truckee River Advisory Council.

Seney: That's right. That's what this is.

Elster: That's the one that I formed and got broad-based interest in the Tahoe and the Truckee area. Then subsequently, after some further events that went on with the big reservoir, the big drawdown, there was a multi-county group that was formed with the aid of our supervisor, and he helped put together and draw up together the multi-county group. So that was kind of an overlay, if you like, that became another group.

### **Two Organizations with Overlapping Interests Organized to Follow Water Issues in the Area**

So there was actually two of us operating.

### **Elster Developed the Truckee River Advisory Council**

Seney: In this first one, I guess—although this is the Truckee River Advisory Council, as you say in your written testimony, I just wanted to make sure we get all the groups. The Tahoe-Truckee Fly Fishers, Nevada County Fish and Game Commission, Placer County Fish and Game Commission, Lahontan Regional Water Quality Control Board, Donner Lake Save our Shoreline, Truckee-Donner Land Trust, the Boca Tournament Association, and representatives of the Truckee Recreation Business. How did you come to this list and

how did you draw these people together? How did you recruit them, and was it difficult?

Elster: It took some effort, like everything else, to contact various people, who contacted various people, and so on like that.

**“It turned out that there were a lot of people who were interested. Nobody seemed to know how their river was being run. Nobody had a clue. . . .”**

It turned out that there were a lot of people who were interested. Nobody seemed to know how their river was being run. Nobody had a clue.

**“. . . Department of Water Resources . . . was doing their part from Sacramento, and never, to my knowledge, was there any involvement of a local community except a number of years before that when the public law [101-618] was negotiated . . .”**

There was this governmental agency, state of California Department of Water Resources, that

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was doing their part from Sacramento, and never, to my knowledge, was there any involvement of a local community except a number of years before that when the public law [101-618]<sup>5</sup> was negotiated and done.

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5. Public Law 101-618 became law on November 16, 1990. The law contains two acts: The Fallon Paiute-Shoshone Tribal Settlement Act and the Truckee-Carson-Pyramid Lake Water Rights Settlement Act.

The main topics of the legislation are:

- Fallon Paiute-Shoshone Tribal Settlement Act
- Interstate allocation of waters of the Truckee and Carson rivers.
- Negotiation of a new Truckee River Operating Agreement (TROA)
- Water rights purchase program is authorized for the Lahontan Valley wetlands, with the intent of sustaining an average of about 25,000 acres of wetlands.
- Recovery program is to be developed for the Pyramid Lake cui-ui and Lahontan cutthroat trout
- The Newlands Project is re-authorized to serve additional purposes, including recreation, fish and wildlife, and municipal water supply for Churchill and Lyon Counties. A project efficiency study is required
- Contingencies are placed on the effective date of the legislation and various parties to the settlement are required to dismiss specified litigation.

Source is: [http://www.usbr.gov/mp/lbao/public\\_law\\_101-618.html](http://www.usbr.gov/mp/lbao/public_law_101-618.html)

(continued...)

But nobody I talked to, other than some water purveyors up in the Tahoe City, were involved in that. So when it came to the environment, nobody had been involved, and the only ones that were interested are the ones who were involved in snow-making and other things that like, who had their involvement in how the amount of water was going to be divvied up.

**“But nobody was interested or was involved for purposes of the environment, even though nominally the state of California was supposedly handling that role. . . .”**

But nobody was interested or was involved for purposes of the environment, even though nominally the state of California was

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5. (...continued)  
accessed on December 7, 2011, at about 2:00 in the afternoon.

supposedly handling that role.

Seney: Did they do a good job, from your point of view, the state of California?

**Role of the State of California in Representing  
Upper Truckee Interests**

Elster: Let's see. I guess I could give a political answer. They probably did the best they could with the limited resources they had. But since they didn't involve and make any effort to involve the local communities—in other words, they didn't reach out and try to get the local communities to be involved, as far as I know. Now, this happened before I moved there, but from people I talked to, nobody had ever heard of that, except for the water purveyors. They were very much in tune with it, both in Truckee

and in Tahoe City. They knew about it and they were involved. But as far as the environmental aspect, as far as I know, there was no reach-out and no touching.

Seney: The impression that I have gained from interviewing participants is that the state was more interested in the allocation of water on Lake Tahoe between California and Nevada than they were, perhaps, the allocations on the upper Truckee.

Elster: I think that's probably fairly accurate, from what I learned after the fact.

Seney: To go back a minute, you said there were these two organizations. You formed one after a drawdown on one of the lakes. What happened there to make you change the way the



organization was structured?

### **Brought Up the Upper Truckee At a TROA Meeting**

Elster: I'm running a blank on the names of all the reservoirs. Isn't that horrible.

Seney: Stampede.

Elster: Yes, of course.

Seney: Boca. Prosser.

Elster: Okay.

Seney: Let me just give you the list. Martis Creek, Independence. [Elster laughs] Don't worry about it. I draw a blank all the time on these things.

Elster: Okay. So after we had formed the Truckee River Advisory Council and, in fact, went down and heard of one of these interstate negotiating sessions—and I don't know if that was before or

after this Newlands hearing for Senator [Harry] Reid, but I think it was before, and I showed up at this hearing. It was attended by attorneys and engineers.

Seney: The TROA [Truckee River Operating Agreement] negotiations?

Elster: TROA negotiations. It was one of the meetings. It was about sixty or seventy people sitting around large tables, saying a lot of things, and somewhere along the line it was, “Does anybody have anything they wanted to add?” And I did. I spoke about not one word being said about the upstream environment. All of this was downstream and how ~~we~~ [they]<sup>6</sup> were going to divvy up all these goodies; namely, the

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6. Clarification provided by Mr. Elster.

water, who's going to get it and how they're going to fix the endangered species downstream and how they're going to do this and buy up water rights, and not one word said about the upstream environment.

**“So I said, ‘You know, there is an upstream environment and there are some problems with it.’ And everybody looked at me incredulously, like, ‘What do you mean? It’s a pristine environment up there.’ I said, ‘Yes, it was before these reservoirs were put in, but they have done a fair amount of damage, and the way they were being operated was doing more damage.’ . . .”**

So I said, “You know, there is an upstream environment and there are some problems with it.” And everybody looked at me incredulously, like, “What do you mean? It’s a pristine environment up there.” I said, “Yes, it was before these reservoirs were put in, but they

have done a fair amount of damage, and the way they were being operated was doing more damage.”

**“I did actually get a ‘Congratulations’ quietly from a . . . biologist. . . . He said, ‘It’s about time somebody said something about the upstream environment.’ . . .”**

I did actually get a “Congratulations” quietly from a gentleman next to me from the Bureau of—I think he was Indian Affairs, a biologist. I won’t mention his name. Good man. He said, “It’s about time somebody said something about the upstream environment.”

So that was the first shot fired, if you like, about that whole issue.

### **Operating the Dams on the Upper Truckee in A Way That Damaged Recreation and Fisheries**

Subsequently comes the Stampede issue,

and here it is again like the Prosser drawdown. This occurred, I think, the next year. Again, another drought year. Now, of course, Prosser wasn't even brought up to the level it had been when it was drawn down, but Stampede was the only remaining reservoir with a fair amount of water in it, but not a lot, just maybe half full. And then there was discussion about this massive drawdown of Stampede way down to a level that undoubtedly would endanger all of its species that now relied on this artificial reservoir. So I heard about this and we started getting involved and told, "This is just the way it's going to be. The decisions are already being made. Too bad." So we contacted our group, and that's . . .

Seney: Can I stop you for a second and ask you something?

**Issues with the Operation of the Upstream Reservoirs**

Elster: Sure.

Seney: In your testimony, you not only complained about the recreational implications of these rapid drawdowns, but also the fact that all of this water flowing in all of a sudden to the Truckee blew out the fishery and then left it to broil, I think was your word, in the later season when there wasn't enough water.

**“ . . . the way they operate . . . is not only to get water downstream, but to max the electrical output . . . later on found out that when you threw water out that quickly, you exceeded the ability to produce electricity and it wasn't even maxing out the electrical output. All it was doing was maxing out the destruction of the environment below the dam . . . ”**

Elster: Correct. Correct. And this particular kind of thing, of operation of the dams to “boom and bust” kind of thing, the way they operate, was, we later found out, and still one of the later issues, is not only to get water downstream, but to max the electrical output and this sort of thing, although, again, later on found out that when you threw water out that quickly, you exceeded the ability to produce electricity and it wasn’t even maxing out the electrical output. All it was doing was maxing out the destruction of the environment below the dam, which, by the way, at one time the Little Truckee River below Stampede was a very fine fishery.

**Reservoir Operation Periodically Destroyed the Fishery on the Little Truckee River**

But at another time I ran into some people who had been working on, over the years, fixing that. Every ten years, somebody tries to fix the Little Truckee River that's periodically blown out by huge drawdowns, and the problem just kept repeating itself and repeating itself. Certainly the operators of the dam had no interest and never took into account, when they were operating it, at least it wasn't a high priority, what they were doing below. And so we got involved at that point, too, because the drawdown was going to be so immense, it not only was going to destroy the recreation, but it was undoubtedly going to do some serious damage to the fisheries and the lake and the eagles that depended on them. The whole thing.



**“We had a big hearing up in Truckee . . . Bureau people . . . basically . . . said, ‘We’re going to do it, and to hell with you,’ but they took a lot of public heat. Later on they managed to minimize what they were going to originally do, so I think it minimized any damage that occurred. . . .”**

We had a big hearing up in Truckee, which politicians attended and Fish and Wildlife people attended, Bureau people, and basically they approached and said, “We’re going to do it, and to hell with you,” but they took a lot of public heat. Later on they managed to minimize what they were going to originally do, so I think it minimized any damage that occurred.

Seney: So you thought you had some influence on that.

**“Unfortunately, the influence was kind of . . . ‘hitting a donkey with a two-by-four’ to get their attention. You couldn’t just communicate, ‘Here, this is going to be the damage you’re going to do. Can’t you do it another way?’ The attitude that came back is, ‘This is our project. This is the way**

**we're going to do it, and you in California don't have any right to have any input in this thing anyway, because this is a Federal dam.' . . ."**

Elster: Yes. Unfortunately, the influence was kind of the way a friend of mine has recently described as "hitting a donkey with a two-by-four" to get their attention. You couldn't just communicate, "Here, this is going to be the damage you're going to do. Can't you do it another way?" The attitude that came back is, "This is our project. This is the way we're going to do it, and you in California don't have any right to have any input in this thing anyway, because this is a Federal dam." Fish and Wildlife, endangered species, everybody other than California.

Seney: Or endangered species in Nevada.

Elster: In Nevada. That's right. And whether they

caused any impact on California species or endangered them was not their mandate, and they were not interested at that time.

Seney: Did you try to get the California side, the Department of Water Resources, Fish and Game, perhaps, to support you in this? Did you have any luck with that?

### **California Department of Water Resources Role in the Issues**

Elster: Somewhat. Somewhat. But through the process, the bureaucratic process, we found that, if you like, the California Department of Water Resources had their hands tied because they, after all, negotiated the statute that didn't input into that statute some environmental protections for California, very weak ones at that, and so

they were probably—I found them in the position of sort of defending what they had done. So as far as their input here, it wasn't great.

Seney: Once you had rounded up these counties and other organizations, did you find them, once they had been made knowledgeable, eager to try to do something about it?

**Trying to Get the State of California to Write Protections for the Upper Basin into the TROA**

Elster: Well, actually it was very, very useful over time, because, yes, they were interested. They didn't have the resources, but they did have all these people that they would send, and so after a while this larger multi-county group met on a regular basis and tried to delve into what all of these agreements were all about, what impact it

was having, and what, if anything, we could do now that the agreement had already been—the legislation had already been done.

**“ . . . we found out that this TROA agreement . . . still needed California to sign off. . . . ”**

But we found out that this TROA agreement was still outstanding and it still needed California to sign off.

So our involvement at that point was to find out about all that, to involve ourselves in the process, and to be prepared to put pressure on our government, the state of California, not to sign on this TROA agreement unless environmental protections were then put into TROA that were not exactly written out black and white in the legislation.

Seney: Did you attend any of the TROA meetings?

Elster: Oh, yes. Oh, yes.

Seney: Talk about the TROA meetings. What was your impression of them, and what went on, the kinds of questions that came up and the complexity of it all?

Elster: Well, you know, in the beginning when we showed up, we were certainly sort of carpetbagger types when we showed up, sort of odd individuals to show up from the pristine upstream environment and what are we doing down here anyway. And we were allowed to sit in the room, sort of in the back. [Laughter] The potentates all had a place at the main table and we were sort of out there.

### **Sierra Pacific, Bob Pelcyger, and the Pyramid**

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### Lake Paiute Tribe

But got to meet some of the people, of course, the [Sierra Pacific] water and power company with their large staff of attorneys, who were basically, the impression I got, drafting most of the documents, sort of running a lot of it, and then, of course, Bob Pelcyger<sup>7</sup> [legal counsel for the Pyramid Lake Paiute Tribe] and the tribe, who I got to meet right away, and the folks from the Newlands Project.

Seney: Let me stop you. You got to meet them right away. Did Bob Pelcyger come up to you and introduce himself? How did that happen?

Elster: You know, I don't recall how that came about, but we did meet somewhere at a fairly early

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7. Reclamation's oral history -program includes interviews with Bob Pelcyger.

stage.

Seney: You're kind of smiling when you say this. The tape won't pick that up.

**At First it Appeared Upstream Interests and the  
Pyramid Lake Paiute Tribe Interests Would  
Conflict**

Elster: [Laughter] Well, Bob's a good guy, very hard driving, did an excellent job for the tribe. When I first met him and let him know that we were going to be a new player, he, along with the others, of course, were wondering about these new intruders. At first we were at loggerheads because we were wanting more water to be used upstream and to take into account the environment, and I think that was just going to complicate his life and what he was trying to do.

**“. . . my own view was that the upstream interests**



**and the Pyramid Lake Paiute Tribe were going to be allies in the long run, that I thought we were the only two that were concerned about the environment of the entire Truckee River and the health of it . . . eventually it did work out just that way. . . .”**

I said my own view was that the upstream interests and the [Pyramid Lake] Paiute Tribe were going to be allies in the long run, that I thought we were the only two that were concerned about the environment of the entire Truckee River and the health of it, and that eventually we would be strong allies. So that’s why this little smile, because eventually it did work out just that way.

Seney: I know in your testimony you indicated that like Bob Pelcyger and the Pyramid Lake Tribe,

you'd like to see the Truckee Canal diversions ended.

### **Supported the End of Diversions From the Truckee River**

Elster: That's right. That's right. You know, looked at, there was a healthy river at one point and then the Bureau was going to let the desert bloom. Then there was an unhealthy river after that, and it didn't take too much intelligence to realize why that was.

**“ . . . we still had millions of dollars being spent on the operation of these reservoirs to divert water, at the same time millions of dollars being spent to fix the problems caused by the diversion. . . . ”**

Now we still had millions of dollars being spent on the operation of these reservoirs to divert water, at the same time millions of dollars being spent to fix the problems caused by the

diversion. So, gee, we could save a heck of a lot of money and heal the river just by stopping the diversions.

### **View of the Agricultural Community and the Reclamation Project**

Now, of course, there have been many people that came to depend on those in the agricultural community, and so we recognized that, but also recognized that in the long run, you know, that we had subsidized industries out there being subsidized at least twice or three times over, and a tremendous waste. So that's the way we looked at it.

Seney: You said that you wanted to end those subsidies through the introduction of incentives, economic incentives, instead of regulating it.

You were critical of, say, the government now coming in and just shutting it off and maybe ruining the agriculture out there, but, instead, providing incentives. You weren't specific about that in your testimony, your written statement. Do you recall what you had in mind? Had you formulated any specific ideas of what those incentives might be?

**“ . . . overall I have a view of that, on subsidies everywhere, that all they do from an economic standpoint is create aberrations. . . . ”**

Elster: You know, as I look back now, I really can't tell you what my specifics are. I know that overall I have a view of that, on subsidies everywhere, that all they do from an economic standpoint is create aberrations. We have the same situation here in Maui, where the sugar industry is

subsidized. They have cane-burning here.

Cane-burning causes health problems, so the government subsidizes the industry, in the first place, and then has to turn around and provide health care to the people who are injured by it.

It's a similar kind of situation to that in the Newlands Project.

Seney: And sugar prices are supported.

Elster: That's right.

Seney: Or there would not be sugar here.

**“ . . . the government creates a problem, then turns around and has to spend a bunch of money to fix it, at the same time continuing the problem it created. . . . ”**

Elster: That's right. So the government creates a problem, then turns around and has to spend a bunch of money to fix it, at the same time

continuing the problem it created. That was the sort of thing, and I'm looking for ways.

Obviously there were ways, incentives. They were buying water from agricultural interests, perhaps giving them a better return on their money than they were getting from their agricultural crops in the first place. There were a lot of ideas, obviously, that would come along, but that was sort of the concept.

Seney: You started to say, before I interrupted you to ask about the tribe, that you had met T-C-I-D [Truckee-Carson Irrigation District] people. What was your impression of the meeting with them like?

### **Russ Armstrong**

Elster: Well, actually, I enjoyed the individuals I met,

particularly one of them I can't recall . . .

Seney: Lyman McConnell?

Elster: No.

Seney: Ernie Schank?

Elster: Ex-Marine. What's his name? I'm sorry, bad memory.

Seney: Russ Armstrong.

### **Helping to Solve the Snowmaking Problem for the Ski Resorts**

Elster: Russ Armstrong, yes. Wonderful gentleman. I enjoyed him a lot. We didn't see eye to eye on too many issues. I did see us, for a while I attempted to perform a function as an intermediary, if you like, between the various interests, because at some point in the negotiations I felt like we were the only ones

that could talk to everyone or would talk to everyone, right to the guts of the issue without lawyers and all the rest of that. And so actually we did succeed in doing a suggestion on snowmaking and how to resolve this impasse that had gone on for years. I don't know if you ever heard of it.

Seney: I've heard about it. Go ahead and say, though.

Elster: [Laughter] I'm embarrassed. I'm embarrassed to say it. I got a lot of consternation after that about it. But we were up in Tahoe City and they had literally reached loggerheads on something that was infinitesimally small difference apart, based on science . . .

Seney: Two hundred acre-feet of water for snowmaking.



Elster: It was something very small, the difference, and the science was so bad that they really couldn't be sure that there was a difference or how much it was. I thought that was perfectly ridiculous that there were literally people getting ready—I think Pelcyger and his group were ready to walk out and end the negotiations over something that was hard to measure and certainly hard to prove. And so I actually did a negotiation there, ending with a coin flip. We flipped for the difference, and I think the California interests won that and they agreed on it.

Later, a lot of second-guessing and, “Oh, why did we do this?” sort of thing. I still found that ridiculous. But, nonetheless, it showed to me how ludicrous a lot of this got, that they got

so involved in the minutia, that they failed to take a step back and say, “Aren’t we trying to reach a reasonable compromise?” And if you’re that close, my experience as a trial lawyer was you split the baby in half and you go on to the next case. That’s what we did that day.

Seney: I’ve attended a TROA meeting, I’ll be honest about it, and it was seven of the longest hours of my life. It was the early stages of my knowing anything about this, and it is extremely complex, as you well know. But my impression, the impression that stuck with me, was how—and this was a subcommittee group—how all of these people knew one another very well and had worked together on these things for years—Mr. [Fred] Disheroon from the Justice

Department; Mr. [William] Bettenberg, Interior; John Kramer from California; Sue Oldham, Gordon DePaoli from Sierra Pacific; Bob Pelcyger, of course; and Lynn Collins.<sup>8</sup> It struck me how hard it would be for anyone to break into that. Others did get up and say a thing or two, Russ Armstrong included, and you could tell that it was a very closed group. Did you get that sense?

**“That’s exactly what we had to do . . . break in. . . . near the end of . . . my involvement . . . they started to talk in terms of trying to recognize the impacts of what they were doing on the upstream environment. . . .”**

Elster: I think your use of the words “break in” were perfect. That’s exactly what we had to do, was

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8. Reclamation’s oral history program includes interviews with all these participants—Disheroon, Bettenberg, Kramer, Oldham, DePaoli, Pelcyger, and Collins.

we had to break in. But I think that after awhile and near the end of this, my involvement as we were leaving, they started to talk in terms of trying to recognize the impacts of what they were doing on the upstream environment.

Seney: Let me turn this over.

END SIDE 1, TAPE 1. AUGUST 8, 1998.

BEGIN SIDE 2, TAPE 1. AUGUST 8, 1998.

**Bob Pelcyger Came to a Meeting of the Truckee River Advisory Council and Briefed Them on Previous Activity**

Elster: Well, in any event, at some point early on, as a matter of fact, now I recall Bob Pelcyger actually did come up to Truckee after we had talked, and he gave us a kind of thumbnail summary of our Truckee River Advisory Council, and now it's coming back to me. So,

fairly early on after the Prosser matter, he came up and gave us a little summary of what went on. So I learned some of the players from him and who they were and what they were doing. So, breaking in, yes, but Bob was actually instrumental, I think, in sort of our break-in.

**“ . . . we started proposing solutions for the Truckee River environment upstream, which the tribe was quite amenable to . . . a lot of things that we wanted were also the things that they wanted, so they were amenable. We got an extreme amount of resistance from the utility company and Fish and Wildlife. . . . ”**

Along the lines, perhaps, in my naïveté, we started proposing solutions for the Truckee River environment upstream, which the tribe was quite amenable to, because, as I told you earlier, a lot of things that we wanted were also the things that they wanted, so they were

amenable. We got an extreme amount of resistance from the utility company and Fish and Wildlife.

Seney: California Fish and Wildlife?

Elster: No, no.

Seney: Nevada?

#### **Dealing with the U.S. Fish and Wildlife Service**

Elster: U.S.

Seney: Oh, U.S. I'm sorry.

Elster: They had their agenda, which was not having anything to do with what we wanted. As a matter of fact, we attempted to get Fish and Wildlife from the Sacramento office involved. We went down and met with them.

Seney: Hoping they'd have a different perspective?

Elster: Right. Finding out that they were woefully

undermanned and so on like that, and then we found—and we tried to get them to change—the fact that the Fish and Wildlife Service was split along the borders rather than along ecosystems. So we tried to get that changed, too, and somewhere found out that, in fact, Fish and Wildlife Service was starting to look into that whole concept of ecosystem-wide management, rather than breaking at political borders.

Seney: State boundaries.

Elster: That's right. So every time we would open a little door, we'd find out there was a gaping blackness in there, you see, that needed to be fixed. So, somewhere there was talk about that, but it hadn't progressed.

**“So, Sacramento, whose jurisdiction we were in,**

**had never even been up to the upper Truckee River once . . .”**

So, Sacramento, whose jurisdiction we were in, had never even been up to the upper Truckee River once, “But isn’t it awfully cold up there?” was their statement. [Seney laughs] And we told them that’s only in the summertime, between four in the morning and eight in the morning. “Oh.” Those were the ones looking over the upper Truckee River.

Seney: Did anybody besides Bob Pelcyger come up and visit you and try to not only orient you, but obviously to—I don’t want to say “co-opt,” but Bob’s a very clever guy and he’s going to be—what can I say? He’s a very clever guy, and that must have been a very useful trip from his point



of view, and obviously you found what he had to say persuasive. Did the power company come up and meet with you, or T-C-I-D, or Reno-Sparks?

Elster: Well, certainly nobody from T-C-I-D or Reno-Sparks. Eventually, Russ Armstrong did get on our mailing list for the multi-county group, and he did come up once or twice, but there was a state meeting—let's see, they were the State Water Resources Control Board or somebody like that.

Seney: California.

**Kathleen Eagan**

Elster: California. That did have a meeting in Truckee. Again, most of the players were there to listen to them, and that's when I spoke and I think

Kathleen Eagan<sup>9</sup> spoke and talked about the environment upstream, the environment was our economy. And that's when I met Sue Oldham, I believe, and so on, and we established a relationship.

Seney: You're smiling when you say that. What do you mean?

### **Dealing with Sierra Pacific Power and Their Interests**

Elster: Well, I think Sue Oldham and I were always at odds from day one until the end of it. We get along, we'd discuss things, but if I'm not mistaken, every proposal that we ever made to try to come up with a solution that would balance the upstream environment and how the

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9. Reclamation's oral history program includes an interview with Kathleen Eagan.

reservoirs were operated, they were soundly rejected by Sue Oldham and her group. They had already had all of those rights, privileges, powers, if you like, and were very jealous in giving up any of them.

Seney: Yes, and they were in a superior position in that regard.

Elster: They were quite the superior position. Indeed they were. I think we won one or two, somewhere along the lines, over the Bureau of Reclamation and the power company's objection when it came to the operation of Stampede, with the tribe's backing. Even after all of this, as we were going along, we had another drawdown of Stampede, a smaller one, but again at the high volume, and we later found

out that the purpose of that was—I'm sorry. They drew down Prosser again, and even though it was at a nice level now, Stampede had a fair amount of water. And why did they do that? Well, because if they did that, they could max the power production out of Stampede.

This happened, you know, a couple of years ago, and so that got involved in the TROA, and we brought it up. We had some discussions with the tribe, and they backed it, and finally got some language in the TROA that the primary purpose was not going to be power generation, but the Bureau fought over that heavy, as did the utility company, and they finally conceded to that one and changed a couple of words. Whether it was going to

change the impact, I don't know. But basically we could see again is, unless the power at Stampede was maxed, its maximum efficiency, that the powerplant itself apparently made no economic sense. Even at its max, it may not have made any economic sense, but if it operated less than its perfect efficiency, it clearly didn't make any economic sense. So the Bureau was fighting to make it operate perfectly well so they could sort of justify its continuation.

Seney: Well, it was added on after the dam was built.

Elster: That I don't know.

Seney: Yes. And I think it's only a 3.5 megawatt facility, which is not a great deal of power.

Elster: I don't know.

Seney: I think that is not a large facility. But the Bureau's policy is always, where possible, to have electric power generation to offset the O&M [operation and maintenance] costs of the dam.

**Reclamation Supported Sierra Pacific Power  
Because of its Small Powerplant At Stampede**

Elster: Right. I understood that. It was just that as we got into a little bit of the economics of it, I was told by several individuals, whose names I can't recall, that without its being operated at absolute perfect efficiency, it didn't justify itself. So despite the fact that that was causing damage to our environment, our recreation, the Bureau was still more than willing to do that damage to justify its own continuation of the powerplant at

Stampede. And, of course, the power then went to the utility, and, of course, they wanted it as well.

Again, they got very little power off of those dams on the Truckee River, but, as it was explained to me at one point by Sue Oldham, that was all long paid for and capitalized and whatnot, and so even though they got very little out of it, it was sort of a very nice return on their investment, since it had all been paid for and written off. So, despite the fact that it was causing a great deal of damage on the Truckee River, the continuation of those little dams and their powerplants and on Stampede and the Little Truckee River, it paid.

Seney: Yes, and if there wasn't enough political

pressure coming from your area, they would simply run it that way.

Elster: And would continue to run it that way. As a matter of fact, of course, the entire Truckee River is still run that way to max power usage and so on like that on the Truckee River. Again, those are the ones that did in the fisheries on the Truckee River and so on like that, the Lahontan cutthroat trout that used to migrate up the river. So, again, it's still run that way.

### **The Federal Negotiators and Others At the TROA Meetings**

Seney: Right. Apart from the alliance that you forged with the tribe, how else did you try to better your position politically in order to gain some



benefits?

**“ . . . we made efforts to work with all the parties . . .  
 . we were some of the few people—Kathleen,  
 myself, some others . . . that weren’t paid to be  
 there. . . .”**

Elster: Well, first of all, as I say, we made efforts to work with all the parties, got to know them all, and, of course, these TROA negotiations were laborious and went on forever, and most of the good work wasn’t done in those sessions anyway. I think we were some of the few people—Kathleen, myself, some others—came down from our group that weren’t paid to be there. You know, there’s that vested interest in all the other people who were there, were paid to be there. So if these things went on forever, so what. That was part of that mentality, why

they could go on for so long.

**“My own experience as a trial lawyer is that no way litigation settlements would ever occur under those kind of circumstances where everyone is paid to be there and nobody seemed to care how long they went on. . . .”**

My own experience as a trial lawyer is that no way litigation settlements would ever occur under those kind of circumstances where everyone is paid to be there and nobody seemed to care how long they went on. That just would have been prohibited in any other matter. Here, since a lot of them were government, paid by the U.S. Government or money given to Indian Affairs or somebody else to be there, it could go on forever, and it looked like it was going to.

Seney: Were you retired at this point?

Elster: Yes.

Seney: So you were able to devote a great deal of time yourself to this.

Elster: I was a volunteer, as a lot of other people were, and so we went down to attend these sessions on our own nickel.

Seney: You've commented on most of the other players, but what about the Federal side?

Elster: Well . . .

Seney: You're smiling.

### **Experience with the Federal Bureaus**

Elster: Again, I say we ran into a great deal of resistance. Certainly there were people who would listen to us and "Thank you very much," but again, the Federal . . .

Seney: Who would that be?

Elster: Well, from the Department of Interior, from the

head man on down.

Seney: Bill Bettenburg, you mean?

Elster: Sure. They were very interested in reaching an accommodation, and I don't know that they viewed us as helping in that regard. They weren't certainly interested in this whole issue of the upstream environment, because all that was, was a complicating factor. Now we were asking for runs, computer runs to be done, showing the impact on the environment, the alternatives and what could be done, and this is sort of a new factor that they hadn't been involved in before and really weren't very interested in doing.

Seney: Did their models even take into account the upper part of the Truckee?

Elster: It took it into account, but not from an environmental standpoint. They had asked us, “What are your optimum levels and flows in the rivers and lake levels?” and so on, and we tried to tell them the best we could figure out all that. Of course, most of the time they told them we could never do that anyway. But near the end, there was an attempt to keep running, and at that point then we were providing our own people from the Department of Water Resources. We got some Fish and Game people involved, and then they became actively involved in trying to come up with solutions that would balance the entire river.

**“We tried to look [out] for the health of the entire river, not just a section. . . .”**

We tried to look [out] for the health of the entire river, not just a section.

Seney: Did you deal with Congressman [Wally] Herger over this?

### **Dealing with the California Congressional Delegation**

Elster: No.

Seney: No?

Elster: No.

Seney: Why not?

Elster: Well, Congressman Herger got involved in the Stampede issue, and I met him. He came up and he got involved. Then he was in the background. His representative was there every once in a while and so on like that. He wasn't actively involved in that. This is really a

Nevada thing, and the U.S. Senators from

Nevada were the ones that were involved.

California didn't know we existed.

Seney: You couldn't get [U.S. Senator Barbara] Boxer  
or [U.S. Senator Diane] Feinstein interested?

Elster: They sent a representative to the whole big issue  
over Stampede and they occasionally would  
send a letter or something like that, but really,  
you know, unfortunately the political boundary  
in California is Nevada was in the wrong place.  
Due to the geography the Truckee [River] really  
should have been part of Nevada, and it was  
always looked on as that.

**“California, I think, only looked at the Truckee to  
send taxes over the hill. . . .”**

California, I think, only looked at the Truckee to

send taxes over the hill. [Laughter]

Seney: [Laughter] And might their perspective, say, the Senators' perspective, be that Senator Reid as a powerful member of the Appropriations Committee, might be more useful to them on other matters and they wouldn't want to interfere with something that meant a lot to him?

**“On the other hand, there was absolutely no downside . . . for California interests to get involved, since it really had nominal impact on anything else going on in California, except for . . . the use of water for agriculture versus use of water for other reasons . . .”**

Elster: I'm sure there's a heck of a lot of truth to that. I'm not an expert in politics, but it makes perfect sense. On the other hand, there was absolutely no down side mostly for California



interests to get involved, since it really had nominal impact on anything else going on in California, except for one. Except for one. And that was the use of water for agriculture versus use of water for other reasons, you know, which is a giant issue in California. So anything that was talked about for protecting the local water basins against intrusion and so on like that, again water being exported, was looked on very, very carefully by California Department of Water Resources, since they had those very issues down in the Central Valley. So they didn't want to make policy up our way that might turn around and bite them in California, so that way they were very careful.

Seney: I thought Public Law 101-618 really didn't do

much for the upper Truckee. I mean, it gives them a 32,000 acre-foot allocation to the California side of the Truckee River, 10,000 from surface water, 22,000 from--apparently the Martis Creek aquifer is where that will come from substantially. I know the use is only about 6,000 or less acre-feet at this point, so there's a good deal of room for growth.

But the statute also points out that if the Tahoe-Truckee Sanitation Agency becomes more efficient or if it begins to ship its return flows to somewhere other than where it's putting them back in now, that gross diversion would be reduced, or if there's more efficiency in the use, if 50 percent is not returned, it will be changed. Were you involved in any of that

stuff?

### **Public Law 101-618 and the Upper Truckee**

Elster: Somewhat. What we finally understood out of all that was, yes, the state of California had reached a number that they were satisfied with as a gross number, maybe better they say than they could have reached in litigation, maybe not. Who knows. But it also appeared to us to be a very will-of-the-wisp kind of a number, that there was never any expectation that the Truckee-Tahoe area would ever be built out, particularly Truckee, that would ever use its full allocation, and therefore it was really looked at as Nevada water. And every time there was any attempt to do it, there were a lot of arguments.

For instance, in the TROA there was a

lot of arguments about drilling wells. In other words, the water districts in our area had to drill wells, since we were all on well water if they're not surface water. They had to drill wells in order to use the water that they were entitled to, yet there was a lot of dispute going on, ongoing when I left, over where it could do it, when it would impact the Truckee River, and so on. And it seemed that the whole direction of that was an attempt to restrict the use of the water that was allocated to the basin so that it would flow down the hill.

Seney: There was even some specifying of the type of wells that would be drilled. I don't remember the terminology, but within the legislation itself it is specific about the type of wells and what is

exempted and what isn't. I mean, golf courses won't be charged against the allocation, and nurseries won't be charged against the allocation. It's very specific.

Elster: Well, to us it was pretty interesting, because while some areas were very specific; when it came to the words about the environment, they were sort of "And if you can, we will look at" kind of thing, as compared to, "This is one of the things that will be in, that you will look at." It was, "If you can, we will look at" kind of thing. Whereas when it came to well drilling or return or all the snowmaking, it was quite specific, at least fairly specific. So it was the orientation of the people who drafted legislation. They were water purveyors. The

Truckee River was looked at as a conduit, not as a living, breathing environmental entity.

Seney: Were there just no environmental organizations up in this area to become interested in this? Is that why they were left out?

### **California Didn't Reach Out to Local Groups**

Elster: Well, there were only outfits that existed for a number of years, like the fly fishing. Then there was the Nevada Fish and Game Commission and so on. There were all of these entities, but they weren't organized and they weren't involved. I have to fault the state of California for that, because if they had reached out and asked for input from the local [community], I think they would have got it. From what people I talked to, nobody had ever heard of it until

legislation had been passed.

**“ . . . Senator [Pete] Wilson, at the time, thought it was a great thing that he’d done, and when the Stampede drawdown occurred, he was really angry . . . he was then . . . governor . . . It goes back to the people who drafted the legislation from both sides were water purveyors. . . . The environment was not high on their list. . . . ”**

I know that Senator [Pete] Wilson, at the time, thought it was a great thing that he’d done, and when the Stampede drawdown occurred, he was really angry, upset that he had signed off on some legislation on the grounds that it was going to be good for California and all he got was this roar of disapproval in California. I think he was really upset—he was then, of course, governor at the time—wondering what had happened here. It goes back to the people who drafted the legislation from both sides were

water purveyors. The state Department of Water Resources is a water purveyor. The environment was not high on their list.

Seney: Senator Reid <sup>10</sup>made a point to me in my interview with him, that Senator Wilson was absolutely essentially to getting President [George] Bush to sign that legislation.

Elster: And then when the Stampede debacle occurred, he [now California Governor Pete Wilson] wrote a letter—and I don't have a copy of it—but he wrote a letter and was quite upset about it.

Seney: The Stampede debacle being the quick drawdown.

Elster: Right.

Seney: That blew out the fishery.

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10. Reclamation's oral history program includes an interview with Senator Harry Reid.



Elster: Right.

Seney: Between Stampede and Boca.

Elster: Not only below, but also the one that was threatened in Stampede itself, coho salmon and all the other species, brown trout and all those fisheries that were in it, plus there were bald eagles that were then on the threatened list, and, of course, all of that came into play then, and he was a little upset to hear that some legislation he'd been involved in didn't turn out very well. But I think he was relying on engineers saying, "This is an engineering kind of approach." And I don't fault that approach. It was just that there wasn't a balance in there of what is the impact going to be on the upstream environment from all this. And nobody apparently asked that

question.

Seney: When I spoke with Kathleen Eagan, one of the things, she stressed, had to do with this business of the gross allocation and the 32,000 acre-feet that we mentioned, and the question of depletion. Apparently it's the tribe and Sierra Pacific that's now arguing for the lowering of the diversion allowed in California, because that's going to profit them. I mean, every drop they can squeeze out of California means more for them. Are you aware of that? Was that beginning then—and when did you leave?

### **The Problem of Gross Diversions and Return Flows on the Upper Truckee**

Elster: I actually left last November [1997], so that was my last involvement, although somehow I'm

still on a mailing list and stuff. [Laughter]

While you're at it, if you can tell me somebody to take me off the mailing list and stop it, that would be great. Save the government's money.

The depletion—yes. I remember that, and I remember getting involved in that. That got to be a very emotional issue. I know from Bob's [Pelcyger] standpoint, he was talking about how they agreed on the 32,000, they had that rule of thumb of fifty percent and all of this stuff. I didn't get into it so much other than to understand that when the issues came up exactly how this was going to work, it got rather heated. Like I say, they were saying it was based on this fifty percent, and if that changed, if it got more efficient on the California side, that would have

changed the numbers they would have agreed on. I didn't get into that too much. I was sort of leaving when that got really hot.

### **Dealing with the California Governor and Legislature**

Seney: Did you deal with state legislature at all in California, attempting to—or the Governor's office, for that matter, beyond this? Obviously you must have complained to Governor Wilson, to get a letter from him. Did you?

Elster: We did. Actually, we went down and met with [David] Kennedy, head of the [California Department of] Water Resources. We met with—actually, we met with the assemblyman who did the—I'm trying to think of the name of it. The water basin protection kind of law. He was

an assemblyman in the state of California, and the legislation was named after him. Water basin management kind of thing, where you set up your own entity to protect the basin, do your own management plan. I can't think of his name. We went down and we met with him, we met with Kennedy. Kennedy, of course, was Wilson's spokesman on the whole issue. So, yes, we tried. We also had our state assemblymen. They were involved in the Stampede issue.

**“Of course, they tried to keep on top. But it was a very complex issue and really was pretty esoteric for most people on the other side of the hill. . . .”**

Of course, they tried to keep on top. But it was a very complex issue and really was pretty esoteric for most people on the other side of the

hill.

Seney: Did you appeal to the regional office of the Bureau of Reclamation in Sacramento about that?

### **Trying to Work with the Bureau of Reclamation**

Elster: No. No, I don't think we were involved with them at all. This was run out of Carson City. This was their thing. When Ed Solbos left and the lady took over—whatever her name . . .

Seney: Ann Ball.

### **Ann Ball and David Overvold**

Elster: Ann Ball. I didn't have much involvement with her afterwards. Her subordinates, yes, but . . .

Seney: Who did you work with, Dave Overvold?

Elster: Dave Overvold, yes, primarily. Good man. He was involved in making the TROA mechanism

function, but he wasn't a decisionmaker. The decisions were apparently being made out of Denver and places like that.

END SIDE 2, TAPE 1. AUGUST 8, 1998.

BEGIN SIDE 1, TAPE 2. AUGUST 8, 1998.

Seney: My name is Donald Seney, and I'm with Gary Elster in his home in Kihei, Maui, Hawaii. Today is August 8, 1998. This is our first session. This is our second tape.

There was something else that I wanted to ask. You were encouraging Kathleen Eagan to become involved, because when I asked her, "How did you (meaning Kathleen Eagan) become involved?" she said she'd gotten a phone call from you. How did all that work out?

### **Getting Kathleen Eagan Involved**

Elster: Well, Kathleen was then the mayor of Truckee, and so in my talking with various people, I know I called her and said, “Are you aware of what’s going on out here?” And she wasn’t. She didn’t live too far from where I did. I told her what I learned, and so she got interested.

### **Sue Oldham of Sierra Pacific Power Offered A Bus Tour of the Facilities on the Upper Truckee**

Then not too long after the—I think it was that state Water Control Board, you know, was in Truckee, Kathleen spoke and I spoke, that Sue Oldham was there and invited or offered to set up a bus tour to take people around to look at all the reservoirs and get an explanation by their hydrologist as to how the whole system worked.



### **The Bus Tour Galvanized Interest in the Issues**

So we accepted, and that was sort of the nucleus of the formation of that multi-county group, because they sent a bus and we had about thirty or forty people that started up at Lake Tahoe and worked our way down through all the systems, and getting a rough explanation of every agreement and how it was run and how it was done. So that was very useful to bring everybody up to date—the politicians who attended and the others. So at that point Kathleen was involved and others from the government. Several members of the town council attended, Truckee Town Council, supervisor, and so on like that. So that was where the sort of getting off the ground, if you

like, and Sue can look back at that and realize she was instrumental in creating this upstream group that I think she wasn't always that happy to have around. [Laughter]

Seney: That's standard policy on the part of Sierra Pacific, to take people on tours. They're quite adept at that, apparently.

Elster: I'm sure she regrets any tour. [Laughter]

Seney: [Laughter] Because it did have the effect, then, of informing and galvanizing people as to what was going on?

**“ . . . that got everybody together and showed them how all these parts work, parts that were right there in our community but nobody had a clue as to what did what when . . . ”**

Elster: Exactly. It really was the thing that got everybody together and showed them how all

these parts work, parts that were right there in our community but nobody had a clue as to what did what when, why was it.

### **Donner Lake Was An Issue for the Town of Truckee**

And, of course, a big issue for the town of Truckee was Donner Lake and how it operated. And to find out that it was half owned by the utility and half owned by the people out in Newlands and so on like that, and that they were at loggerheads and often operated against each other's desires and so on, that's when we had those drawdowns that would occur on that lake and affect the economy even more so than Prosser or Stampede. Very much so.

Seney: Did you find you had a natural alliance with the

people up at Lake Tahoe as well over these matters?

### **People At Lake Tahoe Weren't Much Involved**

Elster: Actually, people at Lake Tahoe were very little involved in this group. There was one person, perhaps, but very little was done except when it came to the snowmaking issue. Then they showed up in force. That was their main issue. But the rest of it, they weren't much involved at all.

Seney: Because the interstate allocation had been settled between the two sides.

Elster: Yes.

### **The Reno-Sparks Community Was Also Not Much Involved**

Seney: What about dealing with the Reno-Sparks

community? Did you deal with them very much?

Elster: We actually attempted to get them involved in our issues, since the upstream area was Reno's natural recreational area. We were kind of surprised to see them very little involved in that. They even renamed the airport, you know, the Truckee-Tahoe or whatever it was.

Seney: The Reno-Tahoe International Airport.

Elster: There you go. I'm sorry, I said Truckee. But the Tahoe name came into it. It showed—Reno Air used to advertise all the lakes and the rivers upstream as their environment, and yet when it came to getting them involved, we had very little success.

**“ . . . we had a lack of success in that the outfits**

**like the Sierra Club and whatnot, who were down in that Carson area, were actually opposed to pretty much anything we were trying to do, because their pet project was the end of the line of the Newlands Project. . . .”**

As a matter of fact, we had a lack of success in that the outfits like the Sierra Club and whatnot, who were down in that Carson area, were actually opposed to pretty much anything we were trying to do, because their pet project was the end of the line of the Newlands Project.

Seney: The wetlands.

Elster: The wetlands down there. The unnatural wetlands, if you like, the natural ones being down at Mud Lake [at the terminus of the Truckee River] and whatnot, where it used to overflow. So we didn't exactly see eye to eye on them, because they were in favor of the

continuation of the diversions, and we were opposed to that. So when it came to the upstream environment, they were opposed. So it was kind of interesting. You'd think things like them and the Nature Conservancy and whatnot would be interested in the upstream. They were actually in opposition.

Seney: I've just been down interviewing people in Reno, the political guy, the vice president of the Chamber of Commerce. One of the things that they're very concerned about, you probably don't know that there's a tight race for U.S. senator, and there's some question as to whether or not Senator Reid will be elected. I think the political people seem to think he'll squeak through, but it won't be easy. And they're very

anxious about the negotiated settlement, Public Law 101-618 unravelling. And their big issue is this 90-10, 90 percent of the water coming to Nevada and 10 percent of the Truckee River water going to California side. Were you trying to unravel that, or did you oppose that distribution of water, or were you more interested in how those reservoirs operated?

**“ . . . California had no ability to use the water. . . . All we were interested in was the way it was operated, not to keep it. It was all going to flow downhill. But just the method of operation. That was it. Not to change the allocation, . . . ”**

Elster: Obviously California had no ability to use the water. It was there. It landed there all winter long in a very long, hard winter, and then it was only usable, if you like, in California about four months a year. All we were interested in was



the way it was operated, not to keep it. It was all going to flow downhill. But just the method of operation. That was it. Not to change the allocation, not to do anything like that. As a matter of fact, I never thought that the Truckee-Tahoe area was going to build out to a point where they ever used the full amount of the allocation, because if it did, it would create something that looked like what was downstream on the Nevada side.

Seney: And then there wouldn't be much of an environment to protect.

Elster: That's right. That's exactly right. If it ever got built up to use that water, it wouldn't be worth visiting.

Seney: In this regard, there is also concern—and you

maybe have been gone too long to have a perspective on this—but the TROA negotiations are dragging on. They’re going on, I think, what, eight years almost now. And the thought was, in a recent document I read, January 1, 1996, now ‘99 is the projected date.

Everybody’s position has become hardened.

This depletion issue is one example of trying to rein in every conceivable detail. Do you think it’s possible that the TROA negotiations will come to nothing, that there won’t be an agreement?

### **The TROA Negotiations Are Dragging on and Some Think They Will Fail**

Elster: Sure. Sure, I think it’s possible. You know, that depletion was interesting, because here it is

a year after I—not quite a year, after I’ve been involved, and that had come to the foreground then. It was based on rules of thumb of what they thought would happen. You’d think that in the use of water, everybody would be in favor of more efficiency and doing a better job with the use of water. In fact, that was counter to what the downstream people wanted. So then when you plug in illogical ways of doing things into expectations, you end up with this morass. And that, I think, is where that thing ended up.

**“ . . . the folks down on the Newlands end, I never could get them to commit to anything, because they would never commit to anything until they saw the whole picture, and there never could be a whole picture until they committed to something. So it was basically always a siege mentality on their part. . . . ”**

As far as the whole overall TROA, I

mean, my impression was that the folks down on the Newlands end, I never could get them to commit to anything, because they would never commit to anything until they saw the whole picture, and there never could be a whole picture until they committed to something. So it was basically always a siege mentality on their part. "Show us what it looks like and then we'll . . ." But until you could see, well, would they participate or did it have to be done without them, and then fight it out in court.

**TCID's ". . . mentality always used to be to fight it out in court. . . ."**

Their mentality always used to be to fight it out in court.

**". . . my one fairly negative experience I had with them was trying to put together a concept of**

**operating the reservoirs, and somehow I got some nasty letter from an attorney from T-C-I-D . . . gist of it, they didn't like the way we were doing it, and their lawyer writes a letter. I thought that was sort of the epitome of what was wrong with the whole business–siege mentality. . . .”**

I know my one fairly negative experience I had with them was trying to put together a concept of operating the reservoirs, and somehow I got some nasty letter from an attorney from T-C-I-D or something about something, I don't remember what. But the gist of it, they didn't like the way we were doing it, and their lawyer writes a letter. I thought that was sort of the epitome of what was wrong with the whole business–siege mentality.

Seney: T-C-I-D, you mean.

Elster: Right.

Seney: I've interviewed any number of them, and I like them personally, they're nice people, gracious and so forth, but it does seem to me they have a difficult time reaching agreement, given their outlook. Would that be your feeling, too, that it's going to be hard for them? You said siege mentality, and maybe that's what you mean.

#### **The Situation at TCID Made Consensus Building Difficult**

Elster: Well, yes, and I think also the problem, as I recall, was just the nature of their setup out there. It wasn't an organized body in the sense that they elected officials and so on like that. I think they had to sort of develop consensus, as I recall, the way it operated.

The interesting thing is, our group,

multi-county group upstream, with various interests, we had water purveyors, we had environmentalists, we had politicians, and we had political entities and all that. We were able to reach a consensus on issues that we didn't all necessarily agree on, but worked towards that. My impression is that they had greater difficulty down there, basically, because there were undoubtedly some that said, "Never ever," and others trying to reach an accommodation, and how did you do that? Meanwhile, they had lawyers telling them about this win or that loss in litigation. Very difficult and complex issue to have that kind of situation behind you. So, I mean, they had their own problems. I understood that.

Seney: How often would your group meet?

### **Meetings of the Truckee River Advisory Council**

Elster: Well, we met fairly often, the multi-county group. I'm trying to remember how often. Sometimes it seemed too often. We had committees and all of this going over all this stuff. We would usually get language from our negotiators, if you like, a few days before a TROA meeting and, "Tell us what you think," and all of a sudden here this volunteer group had to get together and fax stuff back and forth and figure it out. But it seems to me we were meeting at least once a month and sometimes more often, and maybe sometimes every couple of weeks.

### **Placer County Water Agency**



Then we would have our subcommittee, if you like, local Truckee people who are really the nucleus of what was going on, along with the Placer County Water Agency. They were involved quite a bit. Mel Toy,<sup>11</sup> a good man there, worked hard to help these things happen. It seemed like we met quite often.

Seney: And you had a good working rapport with one another?

Elster: Oh, yes. As they say, we didn't see eye to eye on everything, but we always came to a consensus, which I thought was great.

Seney: One thing you showed me when I came in is a questionnaire from the Bureau of Reclamation survey, from the Commissioner's office, a

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11. Reclamation's oral history program includes an interview with John M. Toy.

multi-page one. How many pages are we looking at here?

**Questionnaire From the Bureau of Reclamation**

Elster: Too many.

Seney: They don't number them. [Laughter] And this, I take it, is because of your work with the Truckee River Advisory Commission, that this came to you.

Elster: I guess so. It just got forwarded to me in the mail, just caught up with me, so it's dated June 5 and wanted a reply in July. It just got to me. But in any event, I presume, because I'm on the mailing list, I still get something from the EPA [Environmental Protection Agency] and some other outfits. [Laughter]

Seney: I think this is interesting. I have not seen this.

There's no reason why I should necessarily, unless someone like you showed this to me. But the commissioner [Eluid L. Martinez] is saying we're committed, the Bureau is committed "to consistent and efficient delivery of high-quality products and services to our customers. We are in an era of change. To be a responsive organization, we must foster an atmosphere of partnership between our staff and our customers. To do so, we need your help." Are you going to send this back?

Elster: You want to know if I want to spend the time to fill this thing out. I might. The interesting thing, as you read that to me was the word "customers."

Seney: Yes. Yes.

**“I think that’s still . . . the problem with the Bureau, is that they think they’re a purveyor of water products, and until they ever come around and get rid of their *Cadillac Desert* mentality of . . . purveyor of water products, they’re never going to serve adequately the people, but they will serve their customers. . . .”**

Elster: Because we weren’t customers. I think that’s still, if you like, the problem with the Bureau, is that they think they’re a purveyor of water products, and until they ever come around and get rid of their *Cadillac Desert*<sup>12</sup> mentality of water purveyor of water products, they’re never going to serve adequately the people, but they will serve their customers. And they’ll probably perpetuate this problem just in the way they operate.

**“. . . they caused a multi-billion-dollar problem,**

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12. Marc Reisner, *Cadillac Desert: The American West and its Disappearing Water*. New York: Penguin Books, 1993.

**and the price tag has not come home yet after they try to fix up the mess that they've created. . .**

**.”**

I've seen recently a secretary of the interior symbolically knocking down a few dams someplace in California and elsewhere. Not to say that that's what they should do in all cases, but certainly they caused a multi-billion-dollar problem, and the price tag has not come home yet after they try to fix up the mess that they've created.

So when they talk in terms of customers, it doesn't make me feel wonderful about spending the time to respond to this, because I don't think I'm the guy they really meant to send this to.

Seney: I'm not aware enough to ask every question.

What haven't I asked you that's important?

What do you need to tell us so that we can understand what went on in your part of the river, impacted by the Newlands Project?

**Feels Something Could Have Been Done to Improve the Environmental Issues Rather Than Waiting for Completion of TROA**

Elster: I guess it's really, if you look at it overall, is this a viable way to resolve disputes? That, to me—you asked a moment ago, it has gone on for eight years, it will go on forever. Maybe forever. As I say, with everyone getting paid to attend these meetings, they could be in their office doing something perhaps valuable or going down to one of these meetings and listen to a bunch of people harumphing for hours. If they had a life outside this, they were actually

doing something positive, there was a lot of things, you see, that could have been done positive to the river all during these negotiations. It didn't have to wait for TROA. They could have started to try to operate these reservoirs in a manner that did some of the things that we were talking about, without waiting for it to happen. They say, "Well, we had to have agreements," or something like that. They could have been looking into, and still could be looking into, ways to minimize their own negative impact and to maximize the positive.

### **Helped Organize A Conference and Tour on River Restoration**

We organized, Ray Butler and I, who is

the Fish and Game representative from Nevada County, organized a conference on river restoration, and invited all of these people to attend, the same ones that are in the TROA. Why? To acquaint them with the environment upstream. We had the Truckee Trolley, a little bus, take them around, look at the Little Truckee River, look at Donner Creek below. In other words, we organized the sort of thing that Sue Oldham did years before, but oriented to “Look what’s happened. Look what’s happened.”

We see the desert below the dam, see this desert of washout and then see this other nice meandering part a little farther down, how we could do that by just a proper management



of Stampede instead of the “boom and bust.”

And took them down. Below Prosser Dam there is a mile or so of river between there and the Truckee River, and it’s a desert again because it’s operated on the “boom and bust.” Blow it out and then the rest of the time, during the summer, almost nothing, and try to manage that.

Well, we opened some eyes. I think Russ Armstrong was there, and he found that pretty interesting. There were people from Fish and Wildlife Service who were up there, who were getting ideas as to how—“We could do this,” they said. “We could make this better.” But then after that was all over, they went back to doing their TROA stuff.

**“ . . . their mentality was all downstream. . . . ”**

The fact is that they could make it all work a heck of a lot better without diminishing the delivery of water downstream. So it could work better and they could do it right now, but their mentalities are water purveyors, and Fish and Wildlife Service, it's endangered species downstream, and so on. So their mentality was all downstream.

**Felt That Improvements Could Be Made to the Entire Truckee River System Rather Than to Just the Downstream End of the System**

Then they came up and looked and they thought, "Oh, this is pretty nice, but, gee, your problems are nowhere compared to ours." And true. True. Look at the lower stream of the Truckee River and how awful that is. But it doesn't mean you couldn't do both at the same

time. And that's why the tribe and the upstream people were seen alike, because to the extent you manage them better upstream and didn't have that "boom and bust," you know, you had a better environment upstream. You were going to have less sediment going downstream. You were going to have better water-holding abilities if you didn't have just a dirt track below the dams. All in all, we're going to benefit everybody downstream, but it was a very hard sell, particularly to a utility company who had all the rights and didn't really want to be too interested in what was going on upstream.

So, you know, still the problem is the mentality we could see, was still engineers running these organizations, selling water and

providing these facilities for the use of agricultural interests. And until that kind of balances, it's not going to change. We're going to still be asked to participate in surveys as customers.

Seney: One of the reasons that Prosser gets drawn down, and Boca and Stampede, is to leave more water in Lake Tahoe for a longer period of time to satisfy their recreational needs. Did you get involved in trying to change that at all?

### **Maintaining Lake Levels At Tahoe At the Expense of the Upper Truckee**

Elster: [Laughter] Well, we were trying to do a balance, because there's a Tahoe-Prosser Exchange and all of this complicated nonsense, and we were trying to do it. Actually, we had

reached some understandings with the tribe since they had water rights in both places, that they would do exchanges so that Prosser could stay higher longer, as long as they didn't get hurt. You know the very agreement that underlies all that: "You will keep Lake Tahoe at a certain level unless there's a lot of water goes in, and then—" It had a backwards mentality to it. If it was low, dump it. If it was high, keep it. I don't know if you're aware that that was sort of the way they run that.

Seney: Yes.

Elster: Well, of course, they got that right between the ears in the flooding that occurred in Reno. That was the very agreement they wanted. They were afraid of evaporation. So to the extent it

was low, dump it, or they would lose water to evaporation and not be able to take their water downstream. So, low, get rid of it. High, keep it. So the “high, keep it,” they kept it and then they got all the water they wanted.

Seney: These are the January ‘97 floods you’re referring to.

Elster: I can’t say that I would say they got what they deserved, but they got what they contracted for. It didn’t make any sense. It didn’t have a lot of flexibility built into the situation at that point, and the watermaster, whom I dealt with a lot . . .

Seney: Garry Stone.<sup>13</sup>

**Garry Stone “. . . did the best he could in the most difficult and trying situations. He always had his hands tied and people yelling at him no matter**

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13. Reclamation’s oral history program includes an interview with Garry Stone.

**what he did. . . .”**

Elster: Garry. Garry did the best he could in the most difficult and trying situations. He always had his hands tied and people yelling at him no matter what he did. I told him he ought to retire to his place in Twin Lakes, and he was going to take me up on that. [Laughter]

Seney: [Laughter] I think he may be retiring.

Elster: I hope so. I hope so. He had a place up there in Twin Lakes, although I think one time he complained that they did a real drawdown in his lake or something. [Laughter]

**“My long-term view of this whole thing, again, is that it’s the vested interests, the mentality of what they are trying to do, and I think from my impression of the Bureau of Reclamation is that obviously they’re in some sort of transition, maybe. . . .”**

That's it. My long-term view of this whole thing, again, is that it's the vested interests, the mentality of what they are trying to do, and I think from my impression of the Bureau of Reclamation is that obviously they're in some sort of transition, maybe. Maybe. And they competed with the [U.S. Army] Corps of Engineers for all these projects. Oh, we dealt with them, too. That was terrifically interesting—the Corps of Engineers. I know that's probably not your . . .

Seney: Go ahead.

### **U.S. Army Corps of Engineers and Flooding in 1997**

Elster: . . . area, but the Corps of Engineers were even worse than dealing with the Bureau, in the sense



that during these high-water times and whatnot, one would think that Martis Lake, which they had tested and had determined that it was relatively okay up to a certain level, and then comes the big flooding potential down in Reno in January of '97, when they could be using Martis to hold some water and keep it from flooding as much, they were letting the water go, and they'd just tested the year before.

**Couldn't Understand Why the Corps of Engineers  
Wouldn't Use the Reservoir At Martis Dam for  
Flood Control**

We tried to penetrate that mentality and understand what was going on, and that was, of course, the military type of mentality, and you couldn't do it. You couldn't find out why it was that they were okay in testing it the year before,

but come the need to hold water, they wouldn't do it. Of course, we were looking to balance the whole system and using Martis as a place that could hold more water and balance the whole thing, instead of relying totally on Prosser and so one like that for flood control, because there it was.

**“Prosser had to be dumped every year down to 10,000, I think it was, acre-feet, through the whole winter to be used for flood control. You had Martis, which apparently was a fairly useful lake for flood control, and they didn't use it . . .”**

Prosser had to be dumped every year down to 10,000, I think it was, acre-feet, through the whole winter to be used for flood control. You had Martis, which apparently was a fairly useful lake for flood control, and they didn't use it during the time they could have used it. And

you couldn't get an answer out of those folks.

Couldn't get it.

Seney: Is that because it leaked so badly?

Elster: It had a leak. They built it right over a spring. But then they tested it the year before, and again in the middle of all this TROA, in the middle of trying to operate all this, they just did their own thing without communicating with anybody else at all. "We're going to do this or not." Oh, no. They just did it. And then when it comes time to holding water, they wouldn't do it.

Finally, I think after some emergency requests from Reno, they slowed letting the water out a little, but their peak load releases were really bad during the time when they could have held back even 5,000 acre-feet or so, and

didn't do it.

Seney: It would have helped.

Elster: Everything would have helped when the peak flows were going through Reno. They were not a help; they were hindrance. So, you know, again dealing with all of this was an amazing eye-opener, and I did the best I could with being a volunteer and trying to get through all of this.

**“We did go down and meet with the Corps of Engineers. . . . trying to get the flood control requirements looked at Prosser and see if we couldn't get more balance into the system by taking away these extremes . . .”**

We did go down and meet with the Corps of Engineers. We met with those people down there because we were trying to get the flood control requirements looked at Prosser and see if we couldn't get more balance into the

system by taking away these extremes, and saying, “You will dump it on this date. You can’t fill it till that date.” And even in a drought year when you could see that there was very little snowpack, it took an act of Congress to get them to move up the fill date. So, in any event, that was our experience. It wasn’t all that wonderful.

Seney: You showed me some documents. You are a volunteer. You and your wife were doing some things here on Maui. Have you done things in other places that you’ve lived?

Elster: Yes. Yes, I did it when I lived in San Diego on different kinds of things. The way I figure it is, I was trained, if you like, as a trial lawyer, who uniquely had some skills to do some things that

other people didn't have, and so I've tried to give a little back, and that's what I do.

Seney: In all of your volunteering in these various places, how does the Truckee River business compare to the others?

**“ . . . the Truckee River has every interest involved that any water issue has ever had anywhere in the country, with the Native American and the endangered species and the agriculture and the downstream urban and the upstream environmentalists. It's got it all. . . . ”**

Elster: Well, of course, the Truckee River has every interest involved that any water issue has ever had anywhere in the country, with the Native American and the endangered species and the agriculture and the downstream urban and the upstream environmentalists. It's got it all. So it's the most difficult, of course.

**“ . . . if it hadn’t been for a hundred years of litigation and agreements, it might have been resolved, but every time you ran across one of these, it was, ‘Remember, we have all these agreements out there, so whatever we do, we can’t affect those.’ Well, at some point you ask, ‘Well, what is it you’re trying to do, anyway? Because if you can’t affect those, you can’t change the way things are doing, maybe this is all just a circular act.’ . . . ”**

And then if it hadn’t been for a hundred years of litigation and agreements, it might have been resolved, but every time you ran across one of these, it was, “Remember, we have all these agreements out there, so whatever we do, we can’t affect those.” Well, at some point you ask, “Well, what is it you’re trying to do, anyway? Because if you can’t affect those, you can’t change the way things are doing, maybe this is all just a circular act.”

Seney: Shell games.

**“Obviously the litigation or the settlement act itself is thrust down the throat of the folks in Newlands area, and they were fighting it every inch of their resolve all the way along the line. And I guess you’d have to say I understand that, because it was trying to take away a privilege that they had been given by the U.S. Government and the people, and they didn’t want to give it up. . . .”**

Elster: I hate to use those words, but perhaps. Perhaps.

Obviously the litigation or the settlement act<sup>14</sup>  
itself is thrust down the throat of the folks in  
Newlands area, and they were fighting it every  
inch of their resolve all the way along the line.  
And I guess you’d have to say I understand that,  
because it was trying to take away a privilege  
that they had been given by the U.S.  
Government and the people, and they didn’t  
want to give it up.

**“. . . it was like any other form of welfare, and they were getting welfare and didn’t want to give it up.**

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14. Referring to P.L. 101-618. See footnote on page 17.



**You know, who does? . . .”**

But it was like any other form of welfare, and they were getting welfare and didn't want to give it up. You know, who does?

Seney: That's all the questions I have. Anything else you want to add?

Elster: I think I've probably said it all.

Seney: Thank you very much. I appreciate your time on this lovely day.

Elster: No problem.

END SIDE 1, TAPE 2. AUGUST 8, 1998.  
END OF INTERVIEW.

